UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/SR.1508
16 July 1996

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Fifty-seventh session

SUMMARY RECORD OF THE 1508th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 11 July 1996, at 10 a.m.

Chairman: Mr. AGUILAR URBINA

later: Mr. EL SHAFEI
(Vice-Chairman)

later: Mr. AGUILAR URBINA
(Chairman)

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Initial report of Brazil (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.96-17261 (E)

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Initial report of Brazil (CCPR/C/81/Add.6) (continued)

1. At the invitation of the Chairman, Mr. Vergne Saboia (Brazil), Mr. Gregori, Mr. Espinola Salgado, Ms. Pinheiro Penna and Mr. Sá Ricarte took places at the Committee table.

2. Mr. VERGNE SABOIA (Brazil) said that, before replying to the questions asked at the previous meeting, he would like to inform the Committee of a new development with regard to the demarcation of indigenous lands. The Minister of Justice had concluded his examination of 386 challenges to demarcation decisions referring to 26 indigenous areas. Of those, 33 had been sent back to the National Indian Foundation (FUNAI) with a request for further information. In the case of the remainder, the Minister of Justice had endorsed the Foundation's request that no reduction should be permitted in the limits of the indigenous lands. Once the additional information had been received, the proceedings would be completed. Brazil was thus firmly committed to going ahead with the demarcation of indigenous lands.

3. One of the additional questions asked had been about the domestic applicability of the Covenant. In reply, he would note first that all the rights protected by the Covenant were already set forth in the Brazilian Constitution. Secondly, the third and fourth paragraphs of the initial presentation in the report (CCPR/C/81/Add.6, p. 3) contained a clear statement of the status of Brazil's international obligations under the Covenant. If a conflict were to arise between the internal rule and the Covenant, the Covenant would prevail, as being at a higher level. As to whether any rule of the Covenant had been invoked in a Brazilian court, he regretted he had no information. He reminded the Committee that Brazil's accession to the Covenant was relatively recent.

4. In reply to the question about the independence of the judiciary and the methods whereby judges were appointed, he said that members of the judiciary at all levels served on a career basis. First appointment was through open competitive examination. For magistrates, the system of promotion was determined by the judiciary power. Appointments to superior courts were reserved for qualified lawyers and public prosecutors. In the federal system, appointment was by the President from a list of names for each superior court in question. At the State level, the career of magistrate also began with an open competitive examination and the procedure for the appointment of judges to the higher appeals courts was similar to that of the federal level, the decision being made by the Governor of the State. Once magistrates and judges were appointed, they enjoyed certain immunities designed to preserve their independence and impartiality. They could not be dismissed or transferred and their salaries could not be reduced. The inspection system was administered by the judicial power itself. Since there had been several questions in regard to the federal system in Brazil, it might be useful to note that there was only one system of law. The Penal Code, the Civil Code and the Codes of Civil and Criminal Procedure were the same for the entire territory. There

was a judiciary power in each State, but it was required to apply the same law as that applicable in all the other States of the Federative Republic. A State could have its own constitution and laws, but such laws were secondary, concerning the conduct of business in that State, for example, and could not contradict the federal laws or Constitution.

5. In reply to the question about the proposal to federalize crimes against human rights, he said that offences against human rights were the object of police investigation and trial at the State level. Both civil and military police were subordinate to the State government, which had the authority to judge offences. The aim of the proposal, however, was to ensure greater expeditiousness in the consideration of certain cases, as well as a greater independence from possible local pressures, and thus to bring about a greater degree of compliance with international standards. The President had sent the Congress a draft amendment which would allow the judgement of certain crimes against human rights to be transferred to the federal system. Authority to order such a transfer rested with the Attorney General or the Council for the Defence of Human Rights, both of which enjoyed a high degree of independence from the executive power.

6. The question in regard to paragraph 118 of the report seemed to have arisen out of poor drafting. Any arrest must be preceded by an order from a judge. With reference to the inquiry about article 232 of the Constitution, he said that indigenous persons were able to go to court as individuals or through their community or organization. The presence of the public prosecutor in such cases was not to prevent the exercise of that right but to provide assistance and additional protection.

7. Mr. El Shafei took the Chair.

8. The CHAIRMAN asked whether there were any further questions on part I of the list of issues.

9. Mr. BHAGWATI asked whether there was any provision in Brazil for legal aid to poor persons.

10. Mr. PRADO VALLEJO asked whether there were any measures to restrain the marked increase in police violence since 1995.

11. Ms. EVATT asked whether further legal action was precluded in the case of those challenges to the demarcation of indigenous lands which had been rejected.

12. Mr. KLEIN asked what disciplinary measures were available to deal with police officers who took part in violations of human rights.

13. Ms. MEDINA QUIROGA asked for further details regarding the conditions on which prisoners might be placed in solitary confinement. In connection with the protection of minors, she inquired whether there were any criminal penalties for sexual relations with children.

14. Mr. ANDO asked whether there had been any increase in the appointment of women judges.

15. Mr. BUERGENTHAL asked whether any domestic legislation had yet been adopted to implement the Convention against Torture, to which Brazil was a party. He also asked whether the Federal Government had taken any steps to see that the effective measure for ensuring that torture had not taken place described in paragraph 125 of the report was adopted by all States, and whether the idea of the SOS hot-line for violence against children used in one State was being implemented in other States.

16. Lord COLVILLE asked what the procedures were in connection with the police ombudsman referred to at the previous meeting, what powers the ombudsman possessed and what remedies he could offer to the public.

17. Mr. BRUNI CELLI noted that paragraph 94 (a), on the holding of police inquests to investigate crimes attributed to police officers, referred to the dismissal of 318 military policemen in the year in question. Paragraph 123 referred to the suspension of several members of the civil police accused of torturing suspects. He asked whether dismissal and suspension were the only penalties in such cases.

18. Mr. VERGNE SABOIA (Brazil) said that, in the Brazilian system of justice, no one was tried without having a lawyer to defend him, and an Office of the Public Defender had been established to assist needy people. As to the rise of police violence in Rio de Janeiro and other large cities in Brazil, that increase was partly due to the rise in organized crime and drug trafficking paralleled in other parts of the world. The police, of course, needed to be trained to enforce the law without themselves engaging in violence. With regard to the demarcation of indigenous lands, he understood that once the procedure was finalized, no further recourse would be possible. By going through the process of challenges, the Government had established the legality of such demarcation, so that in future there would be fewer, if any, reasons for going to law. Solitary confinement was sometimes ordered as a disciplinary measure for a person serving a sentence. The judge responsible for the supervision of the prison establishment in question had to be informed of it, and it could not last for more than 10 days. As far as sexual relations with minors were concerned, the age of consent in Brazil was 14 years. The reference in paragraph 45 to an expected increase in women judges confirmed what he had said about open examinations for such appointments. That general rule would undoubtedly help to reduce gender discrimination.

19. A domestic legislation to implement the Convention against Torture was under consideration in the Brazilian Congress. It had already been approved by the Chamber of Deputies and was currently before the Senate. The legislature was being urged to speed up the approval of the legislation needed to comply with Brazil's obligations under the Convention against Torture and under the Covenant in that respect. Compulsory medical examinations for detained persons had proved effective in preventing torture, and he would try to find out what steps were being taken to see that the practice was more widely followed. SOS hot-lines for violence against children were in operation in many States, including Rio de Janeiro, São Paulo, Paraná and Rio Grande do Sul, and efforts were being made to promote the idea in other States.

20. Unfortunately, he had no specific information available regarding the post of police ombudsman, but would forward it to the Committee later.

21. Most of the members of the police who had been accused of committing acts of torture and other forms of abuse had not only been dismissed, but were also subject to prosecution if the offence committed was punishable under criminal law.

22. In his introductory remarks, he had referred to various measures that had been taken in Brazil to ensure equality between men and women, among them a law approved by the Congress which would require that one half of all candidates for office from each political party should be women. In practice, more and more Brazilian women were participating in the various spheres of political life. Measures undertaken to combat discrimination in the labour market also applied to matters of race and sex; among them was the establishment of the Working Group for the Elimination of Discrimination in Employment and Occupation, which was proposing various normative measures and setting a timetable for their implementation. That group would oversee the implementation of the law which forbade requiring sterilization certificates as a prerequisite for employment. In Brazil, many avenues were open to persons who considered themselves victims of labour discrimination. In fact, the labour justice system had been specifically devised to offer protection under the law forbidding such discrimination.

23. He had referred to the matter of violence against women in his introductory remarks. Complaints of violence against women had indeed increased, and awareness campaigns were under way to combat that phenomenon. Information was distributed describing and defining violence against women and setting forth the remedies available if such a situation occurred. It described the Specialized Police Stations, emergency telephone lines, and women's groups offering protection, support and legal advice. The Specialized Police Stations for women victims of violence had begun to be set up as early as 1985, and 152 were currently in operation throughout Brazil. The rise in the number of complaints, as well as in the number of women who sought assistance from the Specialized Police Stations, demonstrated the effectiveness of the measures taken.

24. His Government remained firmly convinced that the constitutional provisions governing the declaration of states of emergency, as set forth in the report, complied with the terms of the Covenant, and wished to assure the Committee that none of the rights referred to in the Covenant as not subject to derogation could be derogated from under such circumstances.

25. Since the promulgation of the Constitution of 1988, the Brazilian media had enjoyed greater freedom of expression than ever before. The absence of censorship had prompted a proliferation of investigative journalism, which had brought to light numerous cases of both corruption and violations of human rights. The media had in fact played a significant role in the development of events leading to the impeachment of President Collor. The cases mentioned earlier involving intimidation and death threats were in fact very few in number, and as such did not really infringe on the right to freedom of expression. Furthermore, any persons who were the victims of such actions received police protection.

26. The Constitution guaranteed the right to form trade unions and professional associations without any governmental interference. Such associations must be registered in order to determine their legal nature, and in compliance with article 8 of the Constitution, which forbade the establishment of more than one trade union in any professional category in one geographical area. He saw no contradiction between that principle and article 22 of the Covenant. Previously, the Ministry of Labour had demarcated the geographical area for each trade union, but the Constitution of 1988 established that the boundaries should be set by the workers themselves. The Government was watching the evolution of the debate among trade union leaders and workers before determining whether or not to retain that provision. It should be noted that those persons who objected to it did not do so on the grounds that it impinged on the freedom of association, but because they disagreed with the results of its application.

27. Brazil's numerous trade unions were gathered under three large confederations actively devoted to promoting the rights of workers. They had been represented on the Brazilian delegation to the recent International Labour Conference, at which they had expressed a wide variety of opinions.

28. He was unaware of any cases in which specific provisions of the Covenant had been invoked before the Brazilian courts, a phenomenon perhaps attributable to the fact that Brazil had only recently become a State party.

29. The Government had conducted consultations and symposia in the preparation of the initial report, and in fact the original draft had been prepared by an independent research institute, the Centre Against Violence. The text of the Covenant had been published in Portuguese in the official gazette. Even before Brazil had acceded to the Covenant, numerous symposia and meetings had been conducted to discuss the principles of human rights with academic circles and the Government. Symposia had also been held to prepare Brazil's contribution to the World Conference on Human Rights. In 1994, a human rights training programme for law enforcement officers had been conducted in Rio de Janeiro, under the auspices of the Rio Secretariat of Justice and the Centre for Human Rights, at which the Covenant had been given due emphasis. The report had been published by the Ministry of External Relations and distributed to universities and bookshops. The Ministry had also issued a press release to all media announcing the presentation of the report to the Committee.

30. The principle of freedom of conscience was widely respected in Brazil. If any restrictions applied, they were aimed at the protection of other rights.

31. Ms. MEDINA QUIROGA said she remained uncertain as to how Brazilian anti-discrimination legislation functioned. It would be useful to know whether the Constitution simply prohibited discrimination in general, or whether it specifically prohibited discrimination on the basis of sex. She inferred from paragraph 39 of the report, which indicated that certain discriminatory provisions were scattered through the national legislation, that the revocation of those laws had not been considered necessary.

And yet, the National Human Rights Programme envisaged the revocation of those provisions in the medium term. Was their revocation necessary, or merely a formality?

32. She inquired whether judges were empowered to apply the Constitution directly in the national courts, or whether the sole means of challenging the constitutionality of a law was to proceed against it, which entailed innumerable logistical and financial problems.

33. She would like Brazil to inform the Committee not only of the approximate number of women occupying high-ranking positions in the Government, but of the ratio of women to men in those positions. Apparently a bill had been put forward whose purpose was to equalize access to the labour market. But what chances had that bill to become law? It would be interesting to know whether the Government had given thought to offering training to the members of the legislature in the principles of human rights.

34. It would be helpful if Brazil would describe the nature and content of the bill concerning reproductive health. It would also be useful to know what measures had been taken to resolve the difficulties, cited in paragraph 42 of the report, that had been experienced in translating new legislation concerning gender equality into practice. Paragraph 40 discussed a proposal, submitted to the Congress, to withdraw Brazil's reservations to the Convention on the Elimination of All Forms of Discrimination against Women. Had those reservations in fact been withdrawn? Since violence against women was a complex cultural problem, it would be interesting to know if the bill on violence against women treated it simply as a crime, or also encompassed other approaches, such as therapy for both victim and perpetrator. The Brazilian delegation had said there were 152 Specialized Police Stations; she inquired what number the Government would consider optimal.

35. She highly commended Brazil's reform of its rape legislation, which removed the emphasis from the social morality aspect and placed it instead on the personal security of the victim. It was customary in Latin American countries to establish the sentence of the offender on the basis of the moral character of his victim. Had similar reforms been enacted or envisaged concerning other sex offences? It would also be useful to know whether there existed any measures addressing the problem of rape within marriage.

36. Turning to the matter of freedom of expression, she inquired whether under Brazilian law, disrespect for authorities was a graver offence than ordinary slander and libel. Human rights principles implied that greater tolerance should be accorded to criticism of persons in positions of authority.

37. Mr. KRETZMER, drawing attention to the distinction drawn between Brazilians and foreign nationals in paragraph 28 of the report, noted that article 12, paragraph 3, of the Brazilian Constitution established that only persons born in Brazil could run for certain political offices, including those of President and Vice-President, or serve as justices of the Supreme Court, members of the diplomatic corps or officers of the armed forces. Article 25 of the Covenant, however, stipulated that every citizen should have the right and opportunity, without any of the distinctions mentioned in

article 2 and without unreasonable restrictions, to take part in the conduct of public affairs. In his view, that constitutional provision clearly contravened the terms of the Covenant.

38. Mr. PRADO VALLEJO wondered if there were conscientious objectors in Brazil and inquired what legislation, if any, regulated exemptions from obligatory military service. Brazil should clarify the meaning of the last sentence of paragraph 31 of the report, and in particular the phrase "alternative forms of service".

39. Mr. ANDO said that the parts of the report touching on articles 3 and 23 of the Covenant left him with doubts as to whether the distinctions between men and women in Brazilian society were actually enshrined in the law or merely existed de facto. With reference in particular to paragraph 262, Brazil should further elaborate on whether the rights of men and women in marriage were equal, including property rights, nationality rights (and in particular the right to pass one's nationality to a child), rights in the event of divorce, and guardianship and custody rights.

40. Ms. EVATT, referring to paragraphs 297 and 298 of the report, inquired whether membership of a political party as a constitutional prerequisite of eligibility was not incompatible with article 25 of the Covenant. Why and how were political parties in Brazil organized "on a national basis"? She requested additional information on the composition and functioning of the electoral courts described in paragraphs 302 and 303.

41. Concerning the quota established for women candidates in elections, she asked why the figure of 20 per cent had been selected, and whether it was applied in practice.

42. She understood that very few complaints, whether from women or from any other particular group, were brought on grounds of discrimination in the field of employment. Might that not be due to a lack of readily accessible remedies? Could figures concerning actual complaints to the authorities be provided?

43. With regard to freedom of expression, the Constitution stipulated that there should be no censorship and the report stated that it did not exist. Could the delegation comment, therefore, on information in her possession that a Mr. Joao Luiz de Moraes had been restrained by a court in Rio de Janeiro from publishing information implicating a high-ranking military officer in acts of torture?

44. Mr. MAVROMMATIS noted with some concern that discrimination against others on grounds of property, which was inadmissible according to article 26 of the Covenant, was absent from the list of prohibited discriminations in paragraph 27 of the report. He inquired whether the reference in that paragraph to "any other such circumstance" could be taken as meaning "other status", in the terms of the Covenant.

45. It seemed to him that the reasons for the cessation of a person's status as a minor, as set out in paragraph 222 (c) of the report, implied

discrimination and were as such incompatible with the Covenant. The same might be true of the preferential treatment accorded to persons from Portuguese-speaking countries in respect of residence.

46. He welcomed the announced measures to encourage the election of women to public office, but remarked that the matter of quotas was a controversial one in human rights circles, sometimes being itself seen as conducive to discrimination. Moreover, political machines would have little difficulty in ensuring that more women figured on party tickets: what was important was to ensure - by non-discriminatory means - that more women were actually elected.

47. Mr. BÁN reminded the Brazilian delegation of the obligations assumed by States parties under article 2 (3) of the Covenant. In the case of Brazil, a number of constitutional remedies were indeed listed in paragraph 30 of the report, but he wondered whether they were all readily accessible. More particularly, he found it difficult to believe that a writ of mandamus could serve as a practical remedy in all cases of human rights violations, e.g. when prison inmates were the victims of illegal acts or abuses of power by their jailers.

48. Mr. BHAGWATI, referring to paragraph 257 of the report, asked whether the "single union" concept was not in contradiction with the freedom of association provided for under article 22 of the Covenant. At all events, ILO Convention No. 87 firmly condemned unitary systems.

49. He further asked whether the provision under the Penal Code whereby charges could be brought against persons "forming a criminal band" might not be invoked to prevent those who wished to form trade unions or other similar associations from exercising that right.

50. Mr. BRUNI CELLI joined Ms. Evatt in asking how the constitutional prerequisite of membership of a political party as a condition for eligibility could be reconciled with the rights established under article 25 of the Convention.

51. Mr. VERGNE SABOIA (Brazil), referring to the point raised by Ms. Medina Quiroga, said that the legislation correcting distortions mentioned paragraph 39 of the report had become effective immediately, overruling earlier provisions. If the latter had not been revoked, that was because keeping them on the statute books for the time being facilitated the task of overall harmonization and consolidation.

52. Concerning participation by women in public life, he cited some figures for 1992. At the local level, 171 women had been mayors and 1,672 women had been members of Brazil's 4,973 municipal councils; women occupied 40 (some 7 per cent) of the seats in the Congress; there were currently no women ministers of state, but at various times in recent years women had held the portfolios of industry and trade, economy, social affairs, housing, administration, training and transport; one federal State currently had a woman governor.

53. Concerning women's health and, more particularly, reproductive rights, he referred briefly to the initiatives personally taken by the President's wife,

following the Beijing Conference, to launch a nationwide educational campaign focused on family planning, coupled with access to contraceptive measures and preventive services, notably in the field of cancer.

54. He acknowledged that the problem of violence against women had a cultural dimension. Rehabilitative care - perhaps for offenders as well as victims - was called for in addition to punishment; but he agreed that the number of police units specially trained to deal with such violence should be substantially increased. There was certainly a need to review both the letter and the spirit of the Penal Code as it related to sexual offences, which should be redefined as crimes against the human person, rather than against the moral order. He had no detailed information to hand on the subject of courts' attitudes towards rape within marriage, but would inquire further and inform the Committee accordingly.

55. Concerning the freedom of expression, he submitted that a review of the daily press and of news media in general would show that journalists in Brazil enjoyed virtually unrestricted liberty in their references to even the highest authorities.

56. Brazilian law regarding the acquisition of nationality was unusually open and generous. Restrictions were far fewer than in the past and were not considered unreasonable. But he would convey the Committee's concerns to the appropriate authorities.

57. In reply to Mr. Prado Vallejo's question concerning freedom of thought, religion and conscience, he confirmed that the exception alluded to in paragraph 231 of the report related to conscientious objection; a special law regulated alternatives to military service.

58. As to Mr. Ando's question on equality between men and women with regard to property, inheritance, custodianship, the right to nationality and the transfer of nationality, he could not immediately confirm that all were the subject of specific legal guarantees in Brazil: the first two, however, certainly were.

59. With reference to paragraphs 297 and 298 of the report, he submitted that membership of a political party as a condition of eligibility was not an unreasonable restriction, especially given the facility with which political parties could be created. The prerequisite of organization on a national basis was a consequence of the political circumstances that had prevailed up to 1930, when at every federal election a multitude of small parties rooted in individual States had had to engage in a wearisome search for coalition partners at the national level. But the present prerequisite entailed no excessive constraints: some territorial considerations were involved, but parties were not required to have offices or representation in every single State.

60. The independent electoral courts formed part of the judicial system and played an important role in the preparation and holding of elections, doing much to ensure the honest conduct of the electoral process. Their experience had on occasion been placed at the service of the United Nations.

61. Concerning women's representation, he agreed that the 20 per cent figure was inadequate, but pointed out that it represented a minimum target. There was no legal reason why the Congress should not be composed entirely of women.

62. He did not believe that the relative absence of complaints against discrimination in employment was due to a lack of access to remedies. Labour justice was readily accessible throughout the country.

63. He had no knowledge of the incident of censorship mentioned by Ms. Evatt, but would look into the matter if she provided further details.

64. He had taken due note of Mr. Mavrommatis's remarks on certain possibly discriminatory situations and would pass them on to the appropriate authorities.

65. Pointing out that the writ of mandamus was designed to restore any right that had been violated by an authority, and not just the deprivation of liberty, he said he saw no reason why that remedy should not be available to prisoners.

66. The "single union" concept had not prevented a large number of trade unions from being set up across the country. The matter was, however, under review, and the Congress was, inter alia, looking at ILO Convention No. 87. He failed to see how legal measures designed to prevent persons from gathering together with criminal intent could be used to obstruct the rights of those seeking quite legally to set up a trade union.

67. The CHAIRMAN invited members of the Committee to address concluding remarks to the Brazilian delegation.

68. Mr. BUERGENTHAL said that, while it was clear that the Federal Government was committed to improving the human rights situation in Brazil, it was less clear that the States shared that commitment. Some of them had taken innovative steps in the field of human rights, while others had done nothing. Despite the division of power between the Federal and State Governments, the Federal Government was required under article 50 of the Covenant to ensure enjoyment of human rights throughout Brazil. The Government needed to take a more active role in enforcement and to allocate more resources in order to comply with its responsibility under the Covenant. There was a wide gap between the Government's good intentions and its failure to take practical steps to combat violence, particularly by the police and the security forces, which could not be expected to police themselves.

69. Mrs. CHANET said that the Brazilian Government's new human rights programme augured well for the future. Since Brazil had made no reservations on ratifying the Covenant, it was obliged under article 50 to ensure its implementation throughout the country.

70. With regard to impunity, the certainty of punishment provided a better guarantee against human rights violations than the transfer of competence to the federal judiciary. The plan to transfer such competence on a case-by-case basis seemed unwise since prosecutors would be solely responsible for

deciding, without recourse to legal guidelines, what fell within the jurisdiction of the federal courts. All acts covered under articles 9 and 14 of the Covenant should fall within federal competence.

71. With regard to overcrowding in the prisons, she agreed with Lord Colville that there were many alternatives to imprisonment.

72. Mr. BHAGWATI said that while he welcomed the Brazilian delegation's constructive dialogue with the Committee, he remained concerned by the abnormal delays in the prosecution of human rights violators, especially in cases involving the military police; inadequate allocation of resources had led to a huge backlog of cases. The distinction between the civil and military police was a legacy of the previous regime, and the two should be consolidated. It was important for public prosecutors and judges responsible for dealing with cases involving the military police to be protected from threats to themselves and their families and for recent allegations of such threats to be investigated. An intensive training programme should be provided to familiarize the judiciary with international human rights instruments. Despite the fact that recruitment into the judiciary was by open competition, further action was needed to increase the percentage of women. Since the law permitted direct recruitment to the higher judiciary, women should be included in the list submitted to the President. Small claims and petty offences courts should be set up to dispose of minor matters and thus free the criminal courts to deal promptly with serious crimes. Seminars and workshops should be provided to acquaint judges with the basic principles of the independence of the judiciary adopted by the United Nations General Assembly.

73. Mr. EL SHAFEI said that time would be required to determine whether the reforms instituted in Brazil would be sufficient to eradicate the continuing violence. He was particularly concerned by the following statements in the report: under article 26 of the Covenant, that there had been insufficient elimination of racial discrimination; under article 6, that there were continued instances of summary executions of children, peasants and aboriginals, excessive use of weapons by the police and enforced disappearances; and, under articles 7 and 10, that torture of suspects at police stations was still a problem. The Committee wished particularly to convey to the Government the importance of federal responsibility under any international treaty entered into by Brazil.

74. Mr. ANDO said the size and diversity of Brazil made it understandable that there should be problems in the implementation of human rights. Education was essential to the promotion of human rights; he was amazed that, although education was compulsory in Brazil, paragraph 52 of the report stated that the average length of schooling had been only 3.9 years in 1990. He praised the Federal Government's commitment to change and expressed confidence that the next periodic report would bear witness to significant improvement.

75. Ms. MEDINA QUIROGA praised the report and welcomed the improved implementation of human rights in Brazil. The Government was aware of the problems it faced, and the Committee could only share its concern for the worst problems of Brazilian society: the situation of children, impunity and local pressure on the judiciary. She hoped that the Government would be able

to use the Committee's recommendations to convince other Brazilian authorities of the need for change and that Brazil would ratify the Optional Protocol to the Covenant.

76. Ms. EVATT said that Brazil was a big country with many contrasts and, therefore, many problems. The gap between rich and poor was a primary obstacle to equal enjoyment of human rights. She was concerned by the contrast between law and practice and felt that there was a need to ensure respect for the law and human rights on the part of every federal and State authority. Human rights violators should no longer be allowed impunity. The Federal Government should allocate additional resources to education and enforcement and bring the States into the process. She agreed with Mr. Buergenthal that a stronger federal presence was needed, particularly with regard to the problems of indigenous people and forced labour. She was impressed by the Government's commitment to change and hoped that it would be able to turn that commitment into reality.

77. Lord COLVILLE said he hoped that the Brazilian delegation understood why the Committee had put the relationship between the Federal Government and the States at the top of the list of issues; the ideals adopted at the federal level must percolate down to the States in order to benefit all the inhabitants of the country. He welcomed the reply to the Committee's questions on enforced disappearances. It was important for families to know what had happened to their relatives, and he hoped that such disappearances would never occur again without specific remedies for the victims.

78. The Committee had begun to understand how the Covenant would have direct application in the courts. The formulation of human rights in article 5 of the Constitution did not precisely correspond to the formulation in the Covenant; if the courts had difficulty in reconciling the two, they might follow the example of other countries by making use of the Committee's decisions.

79. Mr. KLEIN said that, while he appreciated the presentation made by the Brazilian delegation, he was not entirely satisfied by the human rights situation in the country. He recommended the enactment in the near future of the law, still pending in the Congress, which would transfer jurisdiction for human rights violations to the federal courts and hoped that, at a later date, it would be possible to broaden the scope of that law. It was important for the Government to ensure the protection of witnesses during federal and State judicial proceedings and to ensure that no member of the public services remained in power if convicted of a human rights violation. He hoped that Brazil would ratify the Optional Protocol to the Covenant as a step towards change.

80. Mr. BRUNI CELLI said that Brazil had made great progress since the ending of the military dictatorship, as shown by its ratification of numerous human rights instruments. While many problems remained, including impunity, torture and the situation of indigenous people and street children, the report had provided the Committee with important information on the Government's achievements in the field of human rights.

81. Mr. PRADO VALLEJO said that despite Brazil's many problems, the negative effect of the dictatorship on human rights was losing its force. He thanked the delegation for its cooperation and hoped that the Covenant would one day become a reality in Brazil.

82. Mr. KRETZMER praised the frankness of the report and the cooperation of the delegation. He welcomed the Government's commitment to progress, but was concerned by the status of human rights under the Covenant in Brazil, especially with regard to articles 6, 7, 8 and 10. While it was not for the Committee to tell a country how to allocate its resources, ratification of the Covenant did imply a commitment of the resources necessary to implement it. He regretted that the delegation had provided no real information on the matter. Among the areas to which additional funds ought to be allocated were law enforcement at the State and federal levels, prosecution of offenders, including not only the security forces but also those involved in forced labour, child prostitution and abuse of other members of the community, and the development of clear procedures for investigating complaints against security personnel. It was unrealistic to expect the security forces to police themselves. He had not been convinced by the delegation's reply to his question regarding article 12 of the Constitution; the distinction between Brazilian- and non-Brazilian-born citizens was not consistent with the Covenant.

83. Mr. GREGORI (Brazil) praised the Committee's sensitivity and lack of arrogance in evaluating the policies of a country with problems in the field of human rights. Progress in that field was not linear in nature, and the task could best be compared to that of Sisyphus, who, when he thought he had pushed his rock to the very top of the hill, had had to begin again at the bottom.

84. Mr. VERGNE SABOIA (Brazil) said that Mr. Gregori had expressed the feelings of the entire delegation, which would take note of the Committee's remarks and looked forward to examining the records of its meetings and to reading its conclusions, which he would convey to his Government.

85. The CHAIRMAN said that he, too, considered the problems of violence and the abuse of power by the military to be among the primary problems in Brazil. He hoped that the Committee's discussions would be of assistance to the country. He paid tribute to the Brazilian judge Antonio Cançado Tridade, whose work as Director of the Inter-American Institute of Human Rights and as a judge of the Inter-American Court of Human Rights was proof of Brazil's commitment in that field. The members of the Committee would be available to the Brazilian delegation should any further information or assistance be required.

The meeting rose at 1.10 p.m.